



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R09-OAR-2021-0524; FRL-8808-02-R9]

Air Plan Approval; California; Eastern Kern Air Pollution Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking final action to approve a revision to the Eastern Kern Air Pollution Control District (EKAPCD) portion of the California State Implementation Plan (SIP). This revision concerns EKAPCD's demonstration regarding reasonably available control technology (RACT) requirements and negative declarations for the 2008 8-hour ozone National Ambient Air Quality Standards (NAAQS or "standards") in the portion of the Kern County nonattainment area under the jurisdiction of EKAPCD.

DATES: This rule will be effective on **[Insert date 30 days after date of publication in the *Federal Register*]**.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA-R09-OAR-2021-0524. All documents in the docket are listed on the <https://www.regulations.gov> website. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available through <https://www.regulations.gov>, or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information. If you need assistance in a language other than English or if you are a person with disabilities who needs a reasonable accommodation at no cost to you, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: Nicole Law, EPA Region IX, 75 Hawthorne St., San Francisco, CA 94105. By phone: (415) 947-4126 or by email at Law.Nicole@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document, “we,” “us” and “our” refer to the EPA.

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I. Proposed Action

On August 25, 2021 (86 FR 47435), the EPA proposed to approve the California Air Resources Board’s (CARB) August 9, 2017 submittal of the Eastern Kern Air Pollution Control District Reasonable Available Control Technology (RACT) State Implementation Plan (SIP) for the 2008 Ozone National Ambient Air Quality Standards (NAAQS) (“2017 RACT SIP”).

Local Agency	Document	Adopted	Submitted
EKAPCD	Eastern Kern Air Pollution Control District Reasonable Available Control Technology (RACT) State Implementation Plan (SIP) for the 2008 Ozone National Ambient Air Quality Standards (NAAQS) (“2017 RACT SIP”)	05/11/2017	08/09/2017

We proposed to approve this submittal because we determined that it complies with the relevant Clean Air Act (“Act”) requirements. Our proposed action contains more information on the submittal and our evaluation.

II. Public Comments and EPA Responses

The EPA’s proposed action provided a 30-day public comment period. During this period, we received no comments.

III. EPA Action

This action is one of three EPA actions on the EKAPCD 2017 RACT SIP submittal. The other two actions are as follows:

- 1) On January 14, 2021 (86 FR 3816), the EPA approved EKAPCD's negative declaration for the Control Techniques Guidelines (CTG) category associated with the Oil and Natural Gas Industry (EPA-453/B-16-001). We assessed internet sites for California's Department of Conservation Geologic Energy Management Division's (CalGEM) Well Finder, CARB's pollution mapping tool, and the California Energy Commission's California Natural Gas Pipelines and determined there were no oil and gas operations within EKAPCD's jurisdiction covered by the Oil and Natural Gas CTG.¹
- 2) The amended rules for major source oxides of nitrogen (NO_x) were submitted separately on May 23, 2018, and August 22, 2018. These rules and the RACT certification for major source NO_x will be addressed in a separate action.

This action addresses the remainder of the 2017 RACT SIP submission. Additional details about the submission and the EPA's separate actions thereon are available in the proposed action (86 FR 47435) and the technical support document (TSD).

No comments were submitted on the proposed action. Therefore, as authorized in section 110(k)(3) of the Act, the EPA is approving the 2017 RACT SIP into the California SIP.

IV. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this action

¹ Technical Support Document for EPA's Clean Air Act Rulemaking for the California State Implementation Plan Eastern Kern County Air Pollution Control District Negative Declaration for Control Techniques Guidelines for the Oil and Natural Gas Industry, dated August 2020 and prepared by Sina Schwenk-Mueller.

merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- Does not provide the EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

The Congressional Review Act, 5 U.S.C. section 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. The EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the *Federal Register*. A major rule cannot take effect until 60 days after it is published in the *Federal Register*. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[insert date 60 days after date of publication in the *Federal Register*]**. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: October 20, 2021.

Deborah Jordan,
Acting Regional Administrator,
Region IX.

For the reasons stated in the preamble, the Environmental Protection Agency amends part 52, chapter I, title 40 of the Code of Federal Regulations as follows:

PART 52 - APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

AUTHORITY: 42 U.S.C. 7401 *et seq.*

Subpart F – California

2. Section 52.220 is amended by adding paragraph (c)(503)(ii)(A)(2) to read as follows:

§52.220 Identification of plan-in part.

* * * * *

(c) * * *

(503) * * *

(ii) * * *

(A) * * *

(2) Reasonable Available Control Technology (RACT) State Implementation Plan (SIP) for the 2008 Ozone National Ambient Air Quality Standards (NAAQS) except the portion addressing the Negative Declaration for the Oil and Natural Gas CTG, as adopted on May 11, 2017.

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3. Section 52.222 is amended by revising paragraph (a)(16)(i) to read as follows:

§52.222 Negative declarations.

(a) * * *

(16) * * *

(i) The following negative declarations for the 2008 ozone standard were adopted by the District on May 11, 2017 and submitted to the EPA on August 9, 2017:

Table 16 to Paragraph (a)(16)(i)

EPA document No.	Title
EPA-450/2-77-008	Control of Volatile Organic Emissions from Existing Stationary Sources – Volume II: Surface Coating of Cans

EPA document No.	Title
EPA-450/2-77-008	Control of Volatile Organic Emissions from Existing Stationary Sources – Volume II: Surface Coating of Coils
EPA-450/2-77-008	Control of Volatile Organic Emissions from Existing Stationary Sources – Volume II: Surface Coating of Paper
EPA-450/2-77-008	Control of Volatile Organic Emissions from Existing Stationary Sources – Volume II: Surface Coating of Fabrics
EPA-450/2-77-008	Control of Volatile Organic Emissions from Existing Stationary Sources – Volume II: Surface Coating of Automobiles, and Light-Duty Trucks
EPA-450/2-77-025	Control of Refinery Vacuum Producing Systems, Wastewater Separators, and Process Unit Turnarounds
EPA-450/2-77-026	Control of Hydrocarbons from Tank Truck Gasoline Loading Terminals
EPA-450/2-77-032	Control of Volatile Organic Emissions from Existing Stationary Sources – Volume III: Surface Coating of Metal Furniture
EPA-450/2-77-033	Control of Volatile Organic Emissions from Existing Stationary Sources – Volume IV: Surface Coating of Insulation of Magnet Wire
EPA-450/2-77-034	Control of Volatile Organic Emissions from Existing Stationary Sources – Volume V: Surface Coating of Large Appliances
EPA-450/2-77-035	Control of Volatile Organic Emissions from Bulk Gasoline Plants
EPA-450/2-77-036	Control of Volatile Organic Emissions from Storage of Petroleum Liquids in Fixed-Roof Tanks
EPA-450/2-77-037	Control of Volatile Organic Emissions from Use of Cutback Asphalt
EPA-450/2-78-029	Control of Volatile Organic Emissions from Manufacture of Synthesized Pharmaceutical Products
EPA-450/2-78-030	Control of Volatile Organic Emissions from Manufacture of Pneumatic Rubber Tires
EPA-450/2-78-032	Control of Volatile Organic Emissions from Existing Stationary Sources – Volume VII: Factory Surface Coating of Flat Wood Paneling
EPA-450/2-78-033	Control of Volatile Organic Emissions from Existing Stationary Sources – Volume VIII: Graphic Arts-Rotogravure and Flexography
EPA-450/2-78-036	Control of Volatile Organic Compound Leaks from Petroleum Refinery Equipment
EPA-450/2-78-047	Control of Volatile Organic Emissions from Petroleum Liquid Storage in External Floating Roof Tanks
EPA-450/3-82-009	Control of Volatile Organic Compound Emissions from Large Petroleum Dry Cleaners
EPA-450/3-83-006	Control of Volatile Organic Compound Leaks from Synthetic Organic Chemical Polymer and Resin Manufacturing Equipment
EPA-450/3-83-007	Control of Volatile Organic Compound Equipment Leaks from Natural Gas/Gasoline Processing Plants
EPA-450/3-83-008	Control of Volatile Organic Compound Emissions from Manufacture of High-Density Polyethylene, Polypropylene, and Polystyrene Resins
EPA-450/3-84-015	Control of Volatile Organic Compound Emissions from Air Oxidation Processes in Synthetic Organic Chemical Manufacturing Industry

EPA document No.	Title
EPA-450/4-91-031	Control of Volatile Organic Compound Emissions from Reactor Processes and Distillation Operations in Synthetic Organic Chemical Manufacturing Industry
EPA-453/R-06-001	Control Techniques Guidelines for Industrial Cleaning Solvents
EPA-453/R-06-002	Control Technology Guidelines for Offset Lithographic Printing and Letterpress Printing
EPA-453/R-06-003	Control Techniques Guidelines for Flexible Package Printing
EPA-453/R-06-004	Control Technique Guidelines for Flat Wood Paneling Coatings
EPA-453/R-07-003	Control Techniques Guidelines for Paper Coatings
EPA-453/R-07-003	Control Techniques Guidelines for Film Coatings
EPA-453/R-07-003	Control Techniques Guidelines for Foil Coatings
EPA-453/R-07-004	Control Techniques Guidelines for Large Appliance Coatings
EPA-453/R-07-005	Control Techniques Guidelines for Metal Furniture Coatings
EPA-453/R-08-004	Control Techniques Guidelines for Fiberglass Boat Manufacturing Materials
EPA-453/R-08-005	Control Techniques Guidelines for Miscellaneous Industrial Adhesives
EPA-453/R-08-006	Control Techniques Guidelines for Automobile and Light-duty Truck Assembly Coatings
EPA-453/R-94-032	Alternative Control Technology Document – Surface Coating Operations at Shipbuilding and Ship Repair Facilities and Control Techniques Guidelines for Shipbuilding and Ship Repair Operations (Surface Coating), <i>see the Federal Register of 8/27/96</i>
EPA-453/B-16-001	Control Techniques Guidelines for the Oil and Natural Gas Industry

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[FR Doc. 2021-23376 Filed: 11/3/2021 8:45 am; Publication Date: 11/4/2021]